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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,869	08/02/2000	Raymond J Sabbagh	D/A0105	8927

7590 03/03/2003

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EXAMINER

NOLAN JR, CHARLES H

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/631,869

Applicant(s)

SABBAGH ET AL.

Examiner

Charles H Nolan, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2002 and 03 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-18,21-22 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,3,7,8,9,10,11, 13,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gase et al (5,580,177, hereinafter "Gase").

With respect to Claim 1, Gase teaches the monitoring step in figure 3a, element 74, the recognizing step in figure 3a, element 76 and the saving step in the Abstract, lines 4-6 or column 4, lines 12-20. The Examiner notes that the gathering step is an inherent part of Gase. Printer configuration information is typically "gathered" directly from the printer, via "Plug and Play" as implied by Gase in column 5, lines 8-12. Therefore, the Examiner's position is that the Gase reference as a whole anticipates Claim 1. Further,

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Gase teaches the waking and alerting steps of a printer driver already installed on the server in figure 3a, elements 74-76. With respect to Claims 7 and 13, note the rejection of Claim 1 above and the printer port of a print server 28' on the front page diagram. With respect to Claim 3, the Examiner has interpreted the term "thread" as recited in this claim to mean -- part --. Accordingly, Gase teaches the printer manager thread in column 6, lines 8-15. With respect to Claim 8, Gase teaches that his invention may be used with Windows operating software which is the same for the server and client in column 6, lines 53-54. With respect to Claim 9, Gase teaches the pipe server thread (part) connection between elements 28' and 28 transferring printer configuration data on the front-page diagram. With respect to Claim 10, Gase teaches the updating step in figure 3a. With respect to Claim 11, Gase teaches transferring step in Abstract, lines 9-16. With respect to Claim 14, Gase teaches the data is printer status data in figure 3b

3. Claims 1,4-6,7,11-12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by White et al (US 6,301,012 B1, hereinafter "White").

With respect to Claims 1 and 7, White teaches gathering step in figure 2, element 130, the monitoring step in figure 2, element 135, the recognizing step in figure 2, element 190 and the saving/updating step in figure 2, element 195. Further, White teaches the waking and alerting steps for a print driver already installed on the network (server) in figure 3, elements 150,160,175,180 and 185. With respect to Claim 4, White teaches the polling step when a new printer is installed in figure 2, element 135 and the comparing step in figure 2, element 190. With respect to Claim 5, it is noted that White teaches that comparison is made with the new printer configuration data does not match

the stored configuration data in figure 2 element 135 or 190. Further, White teaches that the printer driver is awakened from an already installed driver on the network(server) in figure 3, element 160. It is noted that an unavoidably necessary part of White's invention is the setting of flags to perform the procedure as outlined in figures 2 and 3. Further, it is noted that flags are simply indicators in a program to initiate some activity. The comparisons of White as illustrated in figures 2 and 3 are certainly flags (indicators) that prompt an activity of printer driver comparison and updating to the printer spooler. With respect to Claim 6, White teaches the use of the Windows Operating system to send the print driver information in column 2, lines 52-58 and figure 3 element 150. It is noted that the application program interface in figure 3 is the network program containing the drivers needed to operate the printer in that embodiment of White. With respect to Claim 11, White teaches the server thread(part) that determines the configuration options from the server registry(cache) and transfers the configuration options to the client device(spooler) in figures 2 and 3. With respect to Claim 12, White teaches the transfer of configuration options using a Windows based operating system object in figure 2-3 and column 2, lines 53-57 and column 3, lines 60-65.

***Allowable Subject Matter***

- A. Claims 15-22 are allowed if Applicant overcomes the objection to Claim 19-20
- B. The following is a statement of reasons for the indication of allowable subject matter: The total combination of independent claim 15 is not taught and/or rendered

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obvious by the prior art of record when considering the structure of the software running on the print server.

### ***Response to Arguments***

C. Applicant's arguments filed 8-26-02 have been fully considered but they are not persuasive. Applicant's first argument is that the applied prior art does not teach waking up an already installed printer driver. The Examiner disagrees. White teaches that a new printer driver already installed on the network is awakened in figure 3 at elements 145, 175, 180 and 185. Applicant's second and final argument is that the 28' to 28 connection of Gase fails to show a pipe server thread to transfer summarized printer data to the client device. Applicant argues that this data is administrative data. The Examiner disagrees. Gase teaches that the 28' to 28 connection is "a printer administration utility program which enables uploading of new printer programs into file server 16 in column 3, lines 24-27. It is noted that the administrative programs of Gase are specifically "printer administrative programs" and not general administrative programs. Thus the configuration data is printer configuration data in pipe server thread 28' to 28 on the front-page diagram of Gase as broadly recited in Claim 9.

### ***Claim Objections***

D. Claims 19-20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Applicant has

incorporated the subject matter of Claims 19-20 into new independent claim 15. Claims 19-20 are now just double recitations of what is already recited in Claim 15

***Conclusion***

E. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles H Nolan, Jr. whose telephone number is 703-308-0961. The examiner can normally be reached on Monday through Thursday 8:00 AM to 6:30 PM.

F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 703-305-6619. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

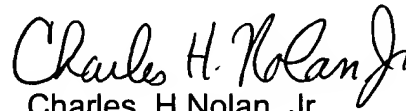
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308-7722 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Charles H Nolan, Jr.

Examiner

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CHN

March 1, 2003